

SECOND CERCLA 104(c) INFORMATION REQUEST, ABILITY TO PAY QUESTIONS
URGENT LEGAL MATTER: PROMPT REPLY REQUESTED
CERTIFIED MAIL, RETURN RECEIPT REQUESTED #XXXX XXXX XXXX XXXX XXXX

Mr. Gregory W. Rome
Williams & Rome, LLC
On behalf of Mr. Lynn B. Dean
241 3 Pakenham Drive
Chalmette, Louisiana 70043

Re: Delta Shipyard Superfund Site, Houma, Terrebonne Parish, Louisiana, SSID No. 06GC

Dear Mr. Rome:

The U.S. Environmental Protection Agency (EPA) seeks cooperation from Mr. Lynn B. Dean in providing additional information and documents that relate to his potential ability to pay, i.e., reimburse the EPA for past and anticipated future remedial costs associated with the Delta Shipyard Superfund Site (Site). The Site is located in the City of Houma, the County of Terrebonne Parish, and the State of Louisiana. The Site is situated approximately one-half mile south of Industrial Boulevard and is located on the east and west sides of Dean Court. The Site's street address is 200 Dean Court, Houma, Terrebonne Parish, Louisiana. Obtained information will aid the EPA in its investigation of the release or threat of release of certain hazardous substances, pollutants or contaminants at this Site. Your response will also help the EPA develop a better understanding of activities that occurred at the Site.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 104(e), 42 U.S.C. § 9604(e), gives the EPA the authority to require the respondent to respond to this information request (see Enclosure 1). We encourage you to give this matter your full attention, and we respectfully request you to respond to this request for information no later than thirty days after you receive this letter. You may designate another official with the requisite authority to respond on behalf of yourself. However, failure to respond to this information request may result in the EPA seeking penalties of up to \$37,500 per day of violation. In addition, furnishing false, fictitious or fraudulent statements or representations is subject to criminal penalty under 18 U.S.C. § 1001.

Please provide a written response to Mr. Robert Werner, Enforcement Officer, at the address included in the Information Request. Please refer to Enclosure 2 for important instructions and definitions and Enclosure 3 for specific questions that require your response to this Information Request.

If you have any questions regarding this letter, contact Mr. Werner at (214) 665-6724. For legal questions concerning this letter, please have your legal counsel contact Ms. Amy Salinas, Assistant Regional Counsel, at (214) 665-8063. Thank you for your attention to this matter.

Sincerely yours,

Ben Banipal, P.E., Associate Director
Technical and Enforcement Branch
Superfund Division

Enclosures (4)

ENCLOSURE 1

DELTA SHIPYARD SUPERFUND SITE TERREBONNE PARISH, LOUISIANA INFORMATION REQUEST RESPONSE TO INFORMATION REQUEST

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) responds to the release or threat of release of hazardous substances, pollutants or contaminants into the environment to stop additional contamination and to clean-up or otherwise address any prior contamination.

The EPA is requesting information under CERCLA Section 104(e). Section 104(e) may be found in the United States Code (U.S.C.) at Title 42 Section (section is denoted by the symbol"§") 9604(e), 42 U.S.C. § 9604(e).

Pursuant to the authority of CERCLA § 104(e), you are hereby requested to respond to the enclosed information request. If you have any question concerning the Delta Shipyard Superfund Site (Site) that is situated approximately one-half mile south of Industrial Boulevard and located on the east and west sides of Dean Court Site in Houma, Louisiana or question concerning this information request letter, please contact Mr. Robert Werner, the designated Enforcement Officer for the Site, at phone number (214) 665-6724, fax number (214) 665-6660, or via email at werner.robert@epa.gov. Please mail your response **no later than thirty days after you receive this letter**, to the following address:

Mr. Robert Werner, Enforcement Officer
Superfund Enforcement Assessment Section (6SF-TE)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

If you or your attorney has legal questions that pertain to this information letter request, please contact Ms. Amy Salinas, Assistant Regional Counsel, at (214) 665-8063, fax number (214) 665-6460, or via email at salinas.amy@epa.gov. For contact via mail, use the following address:

Ms. Amy Salinas
Office of Regional Counsel (6RC-S)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

BACKGROUND INFORMATION

The Delta Shipyard Superfund Site (Site) is located generally at 200 Industrial Boulevard in the City of Houma, the County of Terrebonne, and the State of Louisiana. The Site is situated approximately one-half mile south of Industrial Boulevard and is located on the east and west sides of Dean Court. The Site's street address is 200 Dean Court, Houma, Terrebonne Parish, Louisiana.

For a number of years prior to 1986, the non-incorporated business entity known as Delta Shipyard (DS) operated a boat and barge cleaning and repair facility at the Site. Operations of DS included cleaning and repairing small cargo boats, fishing boats, and oil barges. Before repairs could be started, boats and barges had to be certified vapor free by the U.S. Coast Guard. In order for DS to accomplish this, boats and barges were steam cleaned to remove oily wastes. Recovered oil deemed usable during cleaning activities was collected and eventually sold. Oily waste from the cleaning process was stored in several unlined earthen pits. These pits were used as evaporation ponds. Reportedly, these pits were also used to dispose of oil field drilling material. Currently the EPA is aware of four evaporation pits on the Site.

Currently available information indicates that, prior to 1986, DS operated as a non-incorporated business under the control and/or direction of one or more of the following business entities:

Della Iron Works. Inc., a Louisiana corporation, and/or

Della Iron Works. Inc., a Delaware corporation, recognized in Louisiana, and/or

Chromalloy American Corporation, a Delaware corporation, recognized in Louisiana, and/or

Chromalloy American Corporation, a Delaware corporation, recognized in Missouri, and/or

Chromalloy American Corporation, a Delaware corporation, and/or

Delta Services Industries, a Louisiana partnership

RESPONSE ACTIONS TO DATE

On April 28, 2015, Special Notice Letters (SNL) to undertake a Remedial Investigation and Feasibility Study at the Delta Shipyard Superfund Site were mailed to three PRPs. The three PRPs are Mr. Lynn B. Dean, Dean Services West, L.L.C., and Chromalloy American LLC, C/O Sequa Corporation (Chromalloy). SNLs requested addressees to send their good-faith offers to the EPA not later than August 21, 2015.

On August 21, 2015, the EPA received a response from Chromalloy's counsel. Narrative in the response stated that, "Chromalloy is willing to enter into negotiations with EPA regarding a negotiated agreement for IM/RA and related studies and SOW for the Site. Chromalloy anticipates asking one or more other SNL recipients to perform this work or participate in its funding." On November 11, 2015, the EPA received a follow up response from Chromalloy's counsel. Attached to the follow up response was Chromalloy's draft SOW for the Site. Narrative in the follow up response stated that, "Attached is a draft SOW for review and discussion...Chromalloy anticipates asking one or more other SNL recipients to perform this work or participate in its [the Site's] funding."

On August 21, 2015, the EPA received a single response from counsel for both Dean Services West, LLC, and Mr. Lynn Dean. Narrative in this response stated that, "Both Dean Services West, LLC, and Mr. Lynn Dean are willing to participate in and cooperate with the RI/FS requested by the Agency. We are currently in discussions with Chromalloy to find a mutually agreeable contractor and will update you as the process progresses." Attached to the response was a redlined Administrative Settlement Agreement.

ENCLOSURE 2

DELTA SHIPYARD SUPERFUND SITE TERREBONNE PARISH, LOUISIANA INFORMATION REQUEST

1. Please provide a separate narrative response for each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, *you must supplement* your response to the U.S. Environmental Protection Agency (EPA). Moreover, should you find, at any time, after submission of your response, that any portion of the submitted information is false or misrepresents the truth, or, though correct when made, is no longer true, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. If you make such a claim, the information covered by that claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in subpart 13 of 40 CFR Part 2. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
7. Objections to questions. If you have objections to some or all the questions within the Information Request Letter, you are still required to respond to each of the questions.

DEFINITIONS

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any", as in "any documents" for example, shall mean "any and all."
3. The term "arrangement" means every separate contract or other agreement between two or more persons.
4. The terms "document(s)" and "documentation" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, Photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with the printouts of such punch card, disc, or disc pack, tape or there type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
5. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business. Also provide e-mail addresses.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation [including state of incorporation], partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist. Also provide e-mail addresses.
7. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.

8. The term "person" shall have the same definition as in Subsection 101 (21) of CERCLA, 42U.S.C. § 9601 (21).
9. The term "Site" shall mean and include the Delta Shipyard Superfund Site located in the City of Houma, the County of Terrebonne Parish, and the State of Louisiana. The Site is situated approximately one-half mile south of Industrial Boulevard and is located on the east and west sides of Dean Court. The Site's street address is 200 Dean Court, Houma. Terrebonne Parish, Louisiana.
10. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors and agents.
11. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
12. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR, Part 300 or 40 CFR, Parts 260-280, in which case the statutory or regulatory definitions shall apply.

ENCLOSURE 3

DELTA SHIPYARD SUPERFUND SITE TERREBONNE PARISH, LOUISIANA INFORMATION REQUEST

1. Identify the person(s) that provides answers to the questions below on behalf of Mr. Lynn B. Dean (Respondent).
2. Does the Respondent wish to designate an individual for future correspondence from the U.S. Environmental Protection Agency that associates the Respondent to this Site? If yes, please provide the individual's name, address, telephone number, and fax number.
3. Please provide Respondent's current mailing address and current phone number.
4. After reviewing financial information provided to the EPA with Respondent's 104(e) response dated October 5, 2015, the EPA determined that supplemental financial information from Respondent is needed. Respondent's response to the following supplemental questions will enable the EPA to make a determination of Respondent's potential financial ability to reimburse the EPA for past and anticipated future remedial costs associated with the Delta Shipyard Superfund Site (Site).

- A. For each of the following businesses, provide copies of 2014 U.S. Income Tax Returns filed by the Respondent including all the member/owner K-1s, and any attached exhibits and/or other documents.

Jackup Boat Service, L.L.C.

Elevating Boats, L.L.C.

Duhe, Inc.

Abby-Ashland, L.L.C.

- B. For the following two rental activities reported by the Respondent on his 2014 U.S. Individual Income Tax Return (Schedule E), provide copies of financial statements for the year-end 2014. The requested financial statements include the balance sheets and profit and loss statements and/or "year-end trial balance" sheets.

Trailer Lots Ashland, Houma, LA 70360

Abby Plantation, Houma, LA 70360

- C. Regarding the following rental properties reported by Respondent on his U.S. Individual Income Tax Returns for years prior to 2014 (Schedules E), provide details regarding the sale and or disposition of any and all rental property. Please provide buyer(s) name(s); date(s); proceeds (sales price); and cost basis for each sale of rental properties associated with:

Magnum Producing LP
Colony Production Co, St Bernard, LA

- D. For the following bank accounts identified on the Respondent's 2014 U.S. Individual Income Tax Return, provide account balances (checking and savings accounts) for the year ended December 31, 2014.

Capital One

Morgan Stanley

Synergy Bank

Iberia Bank

- E. Provide the market value(s) of the Respondent's investment(s) with Morgan/Stanley/Smith Barney Holdings for the year ended December 31, 2014. This investment account has been identified as reported on the Respondent's 2014 U.S. Individual Income Tax Return (Schedule B).
- F. Regarding the Respondent's *current financial status*, please provide the requested information on the enclosed "Individual Ability to Pay Claim - Financial Data Request Form."

ENCLOSURE 4

**DELTA SHIPYARD SUPERFUND SITE
TERREBONNE PARISH, LOUISIANA
INFORMATION REQUEST**

Attached "Individual Ability to Pay Claim - Financial Data Request Form."